IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.17106 of 1995

Between:

Alla Ranga Reddy S/o Koti Reddy
R/o.Vetapalem Village Prakasam District.

..... PETITIONER

AND

1 The Govt. of Andhra Pradesh, rep. by its Prl. Secretary,

Revenue (Excise) Department, Secretariat,
Hyderabad.
2 The Commissioner of Prohibition and Excise
Nampalli, Hyderabad.
3 The District Collector,
Guntur District, Guntur.
4 The Prohibition and Excise Superintendent,
Guntur District, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a WRIT OF CERTIORARI calling for the records pertaining to Procs.Memo.No.49828/Ex.II/2/94-95 dt.12-6-95 issued by the 1st respondent and set aside the same and consequently direct the respondents to grant proportionate remission of rentals for the period from 6-8-1991 to 30.9.1991 for the Arrack shops Tsundur, Allapadu, Chinapariui and Modukuru villages of Guntur District.

Counsel for the Petitioner: MR.T.RAGHUNATH REDDY

Counsel for the Respondents: GP FOR PROHIBITION

The Court made the following:

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ORDER:

Aggrieved by the orders of the first respondent dated 12.06.1995 in rejecting the request of the petitioner for remission of rentals proportionately for the period from 6.8.1991 to 30.9.1991 for the arrack shops situated at Tsundur, Allapadu, Chinaparimi and Modukuru villages of Guntur District, the present writ petition is filed.

The petitioner claims to be one of the contractors of arrack shops of Tenali Circle Unit comprising of 99 arrack shops. The villages Tsundur, Allapadu, Chinnaparimi and Modukuru form part of Tenali Circle Unit. That on 6.8.1991 at Tsundur village there were communal riots between Harijans and other caste people and tension has prevailed in the surrounding villages i.e., Allapadu, Chinnaparimi and Modukuru. In view of the prevailing law and order problem and tension in those villages, on the instructions of the District Administration, the petitioner stated to have closed his shops in the above said villages indefinitely from 6.8.1991 till the end of the lease period i.e., 30.9.1991 and on account of indefinite closure of shops, the arrack could not be sold and the same got spoiled and thus he incurred heavy loss. Hence, he made representation to the respondents 2 and 3 for remission of rentals proportionately for the period from 6.8.91 to 30.9.1991, and the same was rejected by the third respondent. The petitioner contends that for the next lease year 1991-92 also Tsundur arrack shops have not functioned and on the recommendations of respondents 2 and 3 proportionate remission of rental to the extent of Rs.7,29,636/- was granted to the license holders by the Government of Andhra Pradesh vide G.O.Rt.No.212, dated 10.2.1994. Pursuant thereof the petitioner stated to have made a representation and since no orders were passed thereon, the petitioner filed Writ Petition No.10723 of 1994, which was disposed of on 17.06.1994 with a direction to the respondent No.2 to consider the representation submitted by the petitioner. Pursuant thereof, the 2nd respondent submitted a report to the 1st respondent, and considering the same, the 1st respondent has passed the rejection order, which was impugned herein.

A counter affidavit is filed by the respondents stating that the petitioner and others were the arrack contractors of Tenali Unit comprising of 99 arrack shops for the

lease year 1990-91 and the Mandal Revenue Officer, Tsunduru and Sub-Divisional Police Officer, Tenali have issued certificate stating that the sales in the above arrack shops have been stopped due to law and order situation prevailed in Tsunduru Mandal in connection with communal clashes. The petitioner filed an application requesting to grant remission of rentals for the period from 6.8.1991 to 30.9.1991 and the 3rd respondent has rejected the same on the ground that the petitioner has lifted the entire minimum guaranteed quantity of arrack fixed for the arrack shops and paid the monthly rentals in full for the lease year1990-91. The 3rd respondent has passed orders to close down the Tsunduru arrack shops for the entire lease year for 1991-92 under section 20 of the A.P. Excise Act and the said contractors had not lifted the Minimum Guaranteed Quantity fixed on Tsunduru arrack shops and therefore the arrack contractors had got remission from the Government for Rs.7,29,636/- as the said shops were remained closed under section 20 of the A.P. Excise Act, whereas the petitioner's arrack shop was not closed under section 20 of the A.P. Excise Act. Therefore the petitioner is not entitled for remission, as he has lifted the entire Minimum Guaranteed Quantity fixed on the said arrack shops.

Heard the learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise.

To substantiate his contention the petitioner has not produced any material showing that he was prevented from conducting any business during the period from 6.8.91 to 26.9.91. On the one hand, the petitioner contends that he suffered loss due to closure of arrack shops due to communal violence in the subject villages and on the other hand the respondents contend that the petitioner has lifted the Minimum Guaranteed Quantity of arrack and is not entitled for any remission in the rentals. The respondents also contend that no notification under Section 20 of the A.P. Excise Act was issued for the lease period of 1990-1991. Such disputed questions of fact cannot be gone into by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

However, at this stage, learned counsel for the petitioner wants to file a civil suit to prove his case for the damages caused to the petitioner by prevention of the respondents in closing the shops.

For the foregoing reasons, the writ petition fails and the same is hereby

dismissed, granting liberty to the petitioner to avail the remedies available under law, before the competent Civil Court. No costs.

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(N.V. RAMANA, J)

Date: 08-11-2004

NSR/TVK

To

1 The Prl. Secretary, Revenue (Excise) Department,

Govt. of Andhra Pradesh, Secretariat,
Hyderabad.

2 The Commissioner of Prohibition and Excise
Nampalli, Hyderabad.

3 The District Collector,
Guntur District, Guntur.

4 The Prohibition and Excise Superintendent,
Guntur District, Guntur.

5 Two CCs to GP for Prohibition and Excise, High Court of AP,

Hyderabad (OUT)

6 Two CD copies.